

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0503.01 Jason Gelender x4330

SENATE BILL 20-139

SENATE SPONSORSHIP

Foote,

HOUSE SPONSORSHIP

Gray,

Senate Committees

Local Government

House Committees

A BILL FOR AN ACT

101 **CONCERNING AUTHORIZATION FOR A COUNTY TO LEND MONEY TO A**
102 **GOVERNMENTAL ENTITY CREATED BY OR LOCATED WITHIN THE**
103 **COUNTY FOR THE PURPOSE OF PROVIDING FUNDING FOR PUBLIC**
104 **INFRASTRUCTURE PROJECTS WITHIN THE COUNTY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill authorizes a county to lend money to a governmental entity that is created by or located within the county subject to the following requirements:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! The source of the loan must be legally available money that is not otherwise encumbered or obligated;
- ! The loan must have a specified repayment term;
- ! The loan recipient is required to pay the county interest on the loan at an initial rate that is equal to or greater than the rate of return earned on all county financial investments; and
- ! The loan recipient shall use loan proceeds for the sole purpose of funding public infrastructure projects within the county.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 30-11-107, **add**
 3 (1)(II) as follows:

4 **30-11-107. Powers of the board.** (1) The board of county
 5 commissioners of each county has power at any meeting:

6
 7 (II) TO ENTER INTO LOAN AGREEMENTS WITH ANY GOVERNMENTAL
 8 ENTITY THAT IS CREATED BY OR LOCATED WITHIN THE COUNTY IN
 9 ACCORDANCE WITH SECTION 30-25-106.5.

10 **SECTION 2.** In Colorado Revised Statutes, **add** 30-25-106.5 as
 11 follows:

12 **30-25-106.5. Infrastructure loans to governmental entities**
 13 **within a county - authorization - limitations.** (1) NOTWITHSTANDING
 14 ANY OTHER PROVISION OF LAW, THE BOARD OF COUNTY COMMISSIONERS
 15 OF A COUNTY, IN CONSULTATION WITH THE COUNTY TREASURER, IS
 16 AUTHORIZED TO MAKE LOANS TO ANY GOVERNMENTAL ENTITY THAT IS
 17 CREATED BY OR LOCATED WITHIN THE COUNTY AND THAT UNDERTAKES
 18 INFRASTRUCTURE PROJECTS WITHIN THE COUNTY. THE BOARD OF COUNTY
 19 COMMISSIONERS SHALL ANALYZE OR CAUSE TO BE ANALYZED ANY SUCH
 20 LOAN USING THE UNDERWRITING STANDARDS ADOPTED PURSUANT TO

1 SUBSECTION (3) OF THIS SECTION BEFORE MAKING THE LOAN, AND ANY
2 SUCH LOAN IS ALSO SUBJECT TO THE FOLLOWING REQUIREMENTS:

3 (a) THE SOURCE OF THE LOAN MUST BE LEGALLY AVAILABLE
4 MONEY THAT IS NOT OTHERWISE ENCUMBERED OR OBLIGATED, AND THE
5 AMOUNT LOANED MUST NOT CAUSE THE TOTAL OUTSTANDING PRINCIPAL
6 BALANCE OF ALL LOANS MADE PURSUANT TO THIS SUBSECTION (1) TO
7 EXCEED EIGHT PERCENT OF THE AMOUNT OF SUCH MONEY AVAILABLE AT
8 THE TIME THE LOAN IS MADE;

9 (b) THE LOAN MUST HAVE A SPECIFIED REPAYMENT TERM, AND THE
10 LOAN RECIPIENT SHALL AGREE TO PAY THE COUNTY INTEREST ON THE
11 LOAN AT AN INITIAL RATE THAT IS EQUAL TO OR GREATER THAN THE RATE
12 OF RETURN EARNED ON ALL COUNTY FINANCIAL INVESTMENTS FOR THE
13 TWELVE MONTHS PRECEDING THE DATE ON WHICH THE LOAN IS MADE; ___

14 (c) THE LOAN RECIPIENT SHALL USE LOAN PROCEEDS FOR THE SOLE
15 PURPOSE OF FUNDING PUBLIC INFRASTRUCTURE PROJECTS, INCLUDING BUT
16 NOT LIMITED TO THE CONSTRUCTION, OPERATION, MAINTENANCE, OR
17 REPAIR OF TRANSPORTATION AND RECREATIONAL INFRASTRUCTURE; AND

18 (d) THE BOARD OF COUNTY COMMISSIONERS SHALL MAKE THE
19 LOAN BY ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE
20 LOAN RECIPIENT THAT ESTABLISHES THE TERMS AND CONDITIONS OF THE
21 LOAN. BEFORE ENTERING INTO SUCH AN INTERGOVERNMENTAL
22 AGREEMENT;

23 (I) THE BOARD OF COUNTY COMMISSIONERS SHALL APPROVE THE
24 PUBLIC INFRASTRUCTURE PROJECT TO BE FUNDED BY THE LOAN AND THE
25 TERMS AND CONDITIONS OF THE LOAN AT A MEETING OF THE BOARD HELD
26 IN ACCORDANCE WITH THE OPEN MEETING REQUIREMENTS OF PART 4 OF
27 ARTICLE 6 OF TITLE 24; AND

1 (II) THE BOARD OF COUNTY COMMISSIONERS OR THE LOAN
2 RECIPIENT SHALL PURSUE PRIVATE SECTOR OPTIONS, INCLUDING BUT NOT
3 LIMITED TO FINANCIAL INSTITUTIONS DOING BUSINESS WITHIN THE
4 COUNTY, FOR FUNDING THE PUBLIC INFRASTRUCTURE PROJECT TO BE
5 FUNDED BY THE LOAN AND REPORT REGARDING THE OPTIONS PURSUED AT
6 THE BOARD MEETING HELD PURSUANT TO SUBSECTION (1)(d)(I) OF THIS
7 SECTION.

8 (2) BECAUSE IT IS REQUIRED TO BE REPAID, A LOAN MADE
9 PURSUANT TO SUBSECTION (1) OF THIS SECTION IS NOT AN EXPENDITURE
10 TO WHICH THE LIMITATIONS ON EXPENDITURES FROM THE COUNTY
11 GENERAL FUND SET FORTH IN SECTION 30-25-106 (1) APPLY.

12 (3) BEFORE MAKING LOANS AS AUTHORIZED BY SUBSECTION (1) OF
13 THIS SECTION, THE BOARD OF COUNTY COMMISSIONERS SHALL ADOPT
14 UNDERWRITING STANDARDS. THE UNDERWRITING STANDARDS MUST
15 REQUIRE, AT A MINIMUM, THAT EACH PROPOSED LOAN BE ANALYZED WITH
16 RESPECT TO THE RISKS OF THE LOAN, MARKET RATES, AND LOAN TERMS.

17 **SECTION 3. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2020 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.